

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY STATE
BOARD OF NURSING

IN THE MATTER OF THE
LICENSE OF

DITTA ALLEN, R.N.
License # 26NO10301200

TO PRACTICE NURSING IN THE
STATE OF NEW JERSEY

Administrative Action

**FINAL ORDER
OF DISCIPLINE**

This matter was opened to the New Jersey State Board of Nursing ("the Board") upon receipt of information which the Board has reviewed and upon which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Ditta Allen ("Respondent") is a Registered Professional Nurse (RN) in the State of New Jersey and has been a licensee at all times relevant hereto.
2. On or about August 28, 2014, the Board mailed Respondent a Demand for Written Statement Under Oath ("Demand") seeking information concerning her nursing practice, education, employment, criminal history, and her response to allegations that she resigned on April 1, 2014 from Newark Beth Israel Hospital in lieu of termination.

Respondent was also asked to provide documentation, in the form of certificates of completion, of all continuing education completed in satisfaction of requirements for the June 1, 2012 – May 31, 2014 licensing cycle.

3. In a letter dated September 5, 2014, an attorney for Respondent indicated that a response would be forthcoming by September 30, 2014. No further response was received.¹

4. On Respondent's 2014 renewal application, Respondent indicated that she would have completed all required continuing education for the June 1, 2012 – May 31, 2014 licensing cycle by May 31, 2014.

CONCLUSIONS OF LAW

Respondent's failure to respond to the Board's inquiry constitutes a failure to cooperate with a Board investigation in violation of N.J.A.C. 13:45C-1.2, -1.3, subjecting Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e).

Respondent's failure to demonstrate timely completion of nursing continuing education requirements for the June 1, 2012 – May 31, 2014 renewal period constitutes a violation of N.J.A.C. 13:37-5.3, subjecting Respondent to sanctions pursuant to N.J.S.A. 45:1-21(e) and (h).

Respondent's indication on her 2014 renewal application that she would complete all required continuing education for the June 1, 2012 – May 31, 2014 licensing cycle by May 31, 2014 constitutes misrepresentation in violation of N.J.S.A. 45:1-21(b).

¹ Respondent's attorney subsequently provided a copy of a response dated October 5, 2014, along with a certified mail receipt indicating that the response had been delivered to the Board's building on October 9, 2015. Apparently, this response was lost after being received in the building and never came to the attention of the Board.

Based on the foregoing findings and conclusions, a Provisional Order of Discipline seeking a suspension, reprimand, \$500 civil penalty, and \$250 civil penalty was entered on December 30, 2014. Copies were served upon Respondent via regular and certified mail. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the thirtieth day following entry unless Respondent requested a modification or dismissal of the stated findings of fact and conclusions of law by setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

Respondent timely replied to the Provisional Order of Discipline in January 2015 by providing a copy of an October 5, 2014 letter and attachments that Respondent had mailed to the Board in response to the Board's August 28, 2014 Demand. Although the certified mail receipt indicates that the response was received in the Board's building on October 9, 2014, the response must have been lost after being received in the building as it did not come to the attention of the Board prior to the filing of the Provisional Order of Discipline.

The Board's Demand consisted of ten enumerated requests for information or documentation. Respondent's October 5, 2014 letter and attachments addressed only two of the ten enumerated requests. Respondent provided her version of what occurred leading to her resignation in lieu of termination, and certificates of completion of continuing education indicating that she completed the following continuing education:

- 8 hours within the 6/1/10 – 5/31/12 biennial period;

- 11.5 hours within the 6/1/12 – 5/31/14 biennial period; and

3 hours within the 6/1/14 – 5/31/16 biennial period.

Respondent also submitted a “tracker” listing “activities” that Respondent completed, which did not constitute adequate documentation of completion of continuing education as it was not a certificate of completion indicating that the “activities” had been approved or accredited as continuing education for nurses and did not provide contact hours awarded as such.

In May 2015, Respondent submitted a supplemental response to the Provisional Order which addressed the eight enumerated requests in the Board’s Demand that Respondent had left unanswered in her October response and also provided some additional certificates of completion of continuing education for the June 1, 2014 – May 31, 2016 biennial period.

In July 2015, Respondent submitted another supplemental response to the Provisional Order which included additional certificates of completion of continuing education for the June 1, 2014 – May 31, 2016. Respondent demonstrated completion of 64 hours of continuing education completed within that biennial period, including certificates of completion for the “activities” listed on the “tracker” which she had previously provided.

Respondent maintained that she had provided a response to the Board’s Demand and that any discipline based upon her failure to cooperate with a Board investigation should be withdrawn. To the contrary, Respondent only provided a partial response to the Board’s Demand, responding to only two out of ten enumerated requests. Even if Respondent’s October 2014 response had not been lost and had been considered by the Board, the Board would have concluded that the response was

inadequate and filed a Provisional Order of Discipline as a means of obtaining the requested information. In response to the Provisional Order, Respondent did not provide the requested information until her supplemental response of May 2015 – amounting to an extra two requests from the Board. Respondent only provided an adequate response on her third submission to the Board.

Respondent also maintained that she believed that she had complied with the Board's continuing education regulations. She maintains that some of the credits she thought would qualify as continuing education were not acceptable. The Board counted all certificates of completion of continuing education that were submitted by Respondent. The "activities" on the "tracker" were subsequently counted when Respondent submitted certificates of completion indicating that she had been awarded 26 contact hours of approved/accredited continuing education for nurses. Despite counting everything submitted over the course of all her submissions, Respondent failed to demonstrate completion of 30 hours of continuing education within the June 1, 2012 – May 31, 2014 biennial period (Respondent demonstrated timely completion of only 11.5 hours of continuing education within that biennial period).

The Board reviewed Respondent's submissions and determined that further proceedings were not necessary although discrepancies had been raised. Inasmuch as Respondent provided the information originally requested and cured the continuing education deficiency of the June 1, 2012 – May 31, 2014 biennial period, the Board determined that suspension was no longer warranted. However, the Board determined that Respondent's failure to fully and adequately respond to the Demand, thereby necessitating the filing of the Provisional Order of Discipline, and review of

Respondent's subsequent reply months later, warrants imposition of a civil penalty. The Board has determined that the civil penalty of \$500 should be lessened to \$250 based upon Respondent's October 2014 partial response, which was lost after being received in the Board's building.

Regarding continuing education, the Board has determined that Respondent's failure to timely complete required continuing education within the June 1, 2012 – May 31, 2014 biennial period warrants imposition of a \$250 civil penalty. Lastly, Respondent's false answer on her 2014 renewal, whereby she certified that she had completed the required continued education when she has been unable to demonstrate that she did so, warrants a reprimand.

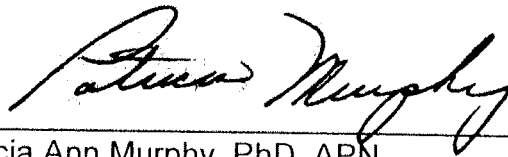
ACCORDINGLY, IT IS on this 15th day of September, 2015,
ORDERED that:

1. A reprimand is hereby imposed for Respondent's violation of N.J.S.A. 45:1-21(b).
2. A five hundred dollar (\$500) civil penalty is hereby imposed, which includes a two hundred and fifty dollar (\$250) civil penalty for failing to provide a full, complete, and adequate response to the Board's Demand and a two hundred and fifty dollar (\$250) civil penalty for failing to timely complete continuing education. Payment shall be made by certified check, bank cashier check, or money order payable to "State of New Jersey," or by wire transfer, direct deposit, or credit card payment delivered or mailed to State Board of Nursing, Attention: Leslie Burgos, P.O. Box 45010, Newark, New Jersey 07101. Any other form of payment will be rejected and will be returned to the party making the payment. Payment shall be made no later than twenty-one (21)

days after the date of filing of this Final Order of Discipline. In the event Respondent fails to make a timely payment, a certificate of debt shall be filed in accordance with N.J.S.A. 45:1-24 and the Board may bring such other proceedings as authorized by law.

NEW JERSEY STATE BOARD OF NURSING

By:

A handwritten signature in black ink, appearing to read "Patricia Ann Murphy", written over a horizontal line.

Patricia Ann Murphy, PhD, APN
Board President